

The Impact of International Human Rights Laws and the International Community on North Korea's Human Rights Situation



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Abstract

The Democratic People's Republic of Korea(North Korea) has been one of the most repressive regimes in the world. The international community, including the United Nations, several States including the United States and the Republic of Korea(South Korea), and non-governmental organizations including Amnesty International and Human Rights Watch have criticized and accused North Korea of numerous human rights violations. This paper seeks to explore whether there has been any impact of those criticisms on North Korea either at the macro-level (laws and policies) or micro-level (common people's lives on the ground). The paper will discuss how international human rights laws, the international community, and global trends have impacted North Korea by looking into three aspects of North Korea's political culture: its legal reforms, changes in policies and diplomatic actions, and the overall quality of people's lives. The first two will be considered at the macro-level, and the third aspect at the micro-level. The impacts of international human rights laws and international community on North Korea will be measured based on Risse, Ropp, and Sikkink's "Spiral Model," which involves five phases of human rights compliance by States from "repression" to "rule-consistent behavior."

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On 17 September, 2013, there was an article in *The New York Times* reporting on the actions of the United Nations to compel the international community to take action on North Korea's (Democratic People's Republic of Korea) human rights situation (Cumming-Bruce). There is a "pattern of abuse" on a huge scale in North Korea, which was shown by many reports and widespread evidence from North Korean refugees and other organizations about horrific human rights violations in North Korea in the last decades (Cumming-Bruce). However, most of the world powers have paid attention only to the nuclear issue when it comes to North Korea (Cumming-Bruce). Therefore, the Human Rights Council in the United Nations is reportedly trying to focus more attention on its human rights situation by pursuing more investigations (Cumming-Bruce). Despite these actions, it is not known whether the critiques and accusation from the international community or international human rights laws have had any impact on North Korea's human rights situation. It is crucial to know how international human rights laws and the current actions by the international community have had any effects in order to generate better strategies to lead the State to improve its human rights practices. Thus, this paper is going to discuss the research question: "how have international human rights laws, accusations from international community, and global trends impacted the human rights situation in North Korea?" This paper will argue based on the author's research that there are impacts of international human rights laws, accusations from international community, and global trends in that North Korea is actually responding to them at least at the macro level of the State with legal reforms, political actions, and diplomatic actions of signing treaties. When it comes to timeline, this paper will focus on the regimes of Kim Il-sung and Kim Jong-il, before current Kim Jong-un regime. In addition, in terms of spiral model from Risse, Ropp, Sikkink's *The Persistent Power of Human Rights: From Commitment to Compliance*, which depicts how human-rights-violating countries

come to follow human rights norms, North Korea is currently covering three phases at the same time: "repression", "denial", and "tactical concession."

For the rest of this paper, the paper will largely focus on three main areas: 1) reform of the North Korean legal system; 2) the response of the government to the international community, primarily the United Nations, individual countries, and international Non-Governmental Organizations (NGOs), in creating its policies and signing international human rights treaties; and 3) the overall quality of people's lives in the State, which will be measured in this paper through the aspects of nutrition and health, the right to a secure life, and the right to gain knowledge and education. The first two areas will be macro level measurements of State action, and the third area, the quality of people's lives, will be measured at the micro level of the State. Specifically, the paper is going to look at whether any changes in macro level are affecting the micro level of people's lives.

Human Rights Framework

Human rights have been mentioned or considered in official documents since the ancient laws like the Code of Hammurabi (Weissbrodt et al.). Especially, after World War II, the modern human rights movement spread across the world, mainly through the United Nations (Weissbrodt et al.). The UN Charter and several multilateral treaties were created to address human rights issues around the world together, especially with a legal mechanism (Weissbrodt et al.). Furthermore, the Universal Declaration of Human Rights (UDHR) was written by a drafting committee consisting of delegates from several countries representing all geographic regions of the world; its purpose was to complete and strengthen the UN Charter, as a guide-line for human rights protection. According to Article 1 of the UDHR, "All human beings are born free and

equal in dignity and rights." Human Rights are regarded by the international community as the most fundamental and basic rights that every person. The rights include "right to life, liberty, and personal security" and "freedom from torture and degrading treatment" according to the UDHR. Even though the UDHR is a declaration, it is considered by many to be legally binding like other human rights treaties, because the UDHR's provisions are further elaborated in the two core human rights covenants, International Covenant on Civil and Political Rights (ICCPR) and International Covenant on Economic, Social, and Cultural Rights (ICESCR), both of which North Korea is bound to follow, as a State party. Furthermore, the UDHR has been accepted as the authoritative definition of "human rights," as provided in the UN Charter, which is legally binding. The provisions of the UDHR apply to all States that have joined the United Nations by becoming States Parties to the UN Charter, including North Korea. Beside the UDHR, there are many other legal mechanisms or laws in the UN, including the two covenants, the ICESCR and the ICCPR, and seven conventions related to human rights (OHCHR). These international human rights laws help protect human rights in that the treaty committee periodically reviews the human rights situation of the States which ratified the respective treaties, so-called State Parties, and the State Parties are obliged to be consistent to the laws for their domestic administration and treatment of their people (UN). If they are violating the laws, they are pressured from international community, especially with international mechanisms within the UN, to fulfill their obligations under various treaties (UN).

Despite this legal framework, there are several States that have continuously violated human rights over decades, including the Democratic People's Republic of Korea (DPRK). The mechanisms described above are used by human rights advocates to keep pressuring the States to comply with international human rights laws and standards. When the States are held

accountable for their violation of human rights by international NGOs, UN, and other States, they tend to go through the "spiral model" (Risse, Ropp, and Sikkink). The "spiral model" is a theoretical explanation of how the process of compliance works.¹ It describes the procedure of "human rights socialization" for human rights violators (Risse, Ropp, and Sikkink 9). There are five phases that describe these States' response to being accused of their human rights violations by the international community (NGOs, UN, and other States): "repression," "denial," "tactical concessions," "prescriptive status," and "rule-consistent behavior" (Risse, Ropp, and Sikkink 6). For the first stage, a country is in a phase of repression under leaders using dramatic acts of social control, resulting in a society that is not free enough for its people to have different ideas from the leaders' ideas (Risse, Ropp, and Sikkink 6). Then, when the State receives criticisms or accusations about the violation of human rights from transnational networks including both NGOs and inter-government organizations, it denies the violations and does not accept the criticism from the international community, rejecting the authority of the international community to criticize the State (Risse, Ropp, and Sikkink 6; 8). However, the international community, primarily the UN, NGOs, and other States, continues criticizing the State's human rights violations, and tries to hold it accountable for the violations with a lot of evidence and information on the situation and legal mechanisms. Being pressured by the international community constantly, the State changes its response to the criticisms to "tactical concession". In this stage, the State tries to appear as if they were following the norm of the international human rights community so as not to get criticized from the international community. For example, they may loosen the restriction they have on political opposition within the State, or sign some

¹ The author admits that the "spiral model" is just one of theories to describe how states come to comply with human rights norms, and there are some critiques of it such as the claim that it seems one directional while reality doesn't always work that way. However, since the model has been accepted widely in social science field as one of popular theories, this paper is going to be based on it.

international treaties to get away from the attention of the international community(Risse, Ropp, and Sikkink 6). In the fourth stage, which is called "prescriptive status", the State shows more sincere and positive response to the international community, establishing human rights mechanisms both internationally and domestically. For example, the State ratifies some international human rights treaties (Risse, Ropp, and Sikkink 7). Ratifying a treaty is different from signing it in that the former one can make a State bound by the treaty, while the latter one cannot. Also, in this stage, the State government establishes human rights laws or mechanisms within the State by changing its laws and building national human rights institutions that create and enforce domestic human rights protection, and actually refers to them for creating its politics (Risse, Ropp, and Sikkink 7). For the final stage, the State's action becomes rule-consistent with international human rights laws, and the local human rights community and international human rights community work together to bring about change in the State's situation (Risse, Ropp, and Sikkink 7). Based on this model, different cases of the human rights violating countries are examined for more effective human rights protection. In this context, the paper will use this model to apply it to the North Korean human rights situation.

Background Information about North Korea

Before analyzing the international legal mechanisms or actions toward North Korean human rights situation, this paper will give more background information about North Korea's human rights record. Since 1948, when North Korea was formed as an official State, also known as the Democratic People's Republic of Korea (DPRK), the country has been governed by the dictatorship of the Kim family. The demography of the State has been described and detailed by two censuses conducted in 1993 and 2008 (DPRK National Report 1). Especially, the 2008 census was intended not only for an accurate count of the population but also for understanding

the "social and economic characteristics" of the people in order to create policies for "social and economic development" (DPRK National Report 1). The gender ratio for the age group from 0 to 40 years is around 104, which means that there are more men than women, but it reverses after 40 years old (DPRK National Report 14; 15). Specifically, when it comes to North Korean babies, there has been abortion or infanticide. According to World Factbook quoted in Dr. Kirk Allision's Presentation on North Korean human rights situation, "the infant mortality rate" is 25.34/1000 in North Korea, while the rate is 4.01/1000 in South Korea. In addition, when it comes to geographic distribution, most people are living in South Phyongan, which is more rural and poor, compared to Pyongyang, the capital that receives the most funds among the provinces in the DPRK (DPRK National Report 25; 26).

In this background, numerous human rights violations occurred under this regime. The State not only established its dictatorship through its legal systems but also has been controlling people's lives on the ground in several aspects.

First, when it comes to the legal system, the North Korean Constitution is just a manifestation of its political system rather than a guarantee of "justice for the people" (Yoon 1291). Even though people's basic human rights, including freedom of speech and protection from arbitrary arrest, are technically written in the Constitution, it is very doubtful that they are protected in reality (Yoon 1294). The Korean Workers' Party is superior to any government organizations, under the dictatorship of the Kim family (Yoon 1290). Specifically, the Constitution says, "The DPRK shall conduct all activities under the leadership of the Workers' Party." (qtd. in Yoon 1290; 1291). It shows that the Constitution gives power directly to the party, rather than its own people. There is no institutional mechanism, established through the Constitution, for the North Korean people to claim rights violations. Instead, one of the main

things that the Constitution defines is the power structure of government organizations, and it is focused on centralizing power (Yoon). For example, in 1948, the Supreme People's Assembly (SPA) became "the highest organ of State authority" and it had "exclusive legislative power"(Yoon 1292; 1293). This situation shows that there are no other institutions that can point out human rights violations by the SPA, for the justice of the people, with its own authority.

Beyond controlling political opinions or public activities, one of the notable characteristics of the total control held by the North Korean government is that it even seeks to control personal basic emotions. When it comes to people's lives, the State even controls people's freedom to love (Demick). For example, the North Korean environment is so strict and conservative that a film implying that a couple kissed, even though it didn't show their lips touch, was given an R rating (Demick 15). In this environment, the people are discouraged to show love or affection to each other in public under social pressure (Demick 80). Many marriages in North Korea are arranged by families or party secretaries, and there is no dating culture (Demick 80). Compared to other countries like the U.S., S. Korea, and even China, where the freedom to love seems natural as one of human's basic emotion, these examples shows how strictly the basic emotion is controlled in North Korean society. It is also implied that the state controls social environment to see free-dating as unnatural, so it should be not done openly (Demick). This situation suggests that the North Korean government is trying to control even private lives of people, by indirectly and directly influencing them through the media which includes films and education systems.

In addition, the State controls its people's financial situation in that it controls their work through which they make a living with food coupons. Most North Koreans cannot stop working or even complain about the works despite terrible working condition with little pay because the

work is directly related to their food and survival (Demick 60). Otherwise, they might be "sent to a detention center" (Demick 60). At the same time, however, North Korean leaders are inconsistent about their rules. There is widespread corruption from supervisors by overlooking the situation "with a wink and a nod" when some other people miss their work (Demick 60). It shows that the controlling system is inconsistent because some leaders loosen the control for certain people, while trying to control other people's lives including working schedule.

Furthermore, even North Koreans' minds and thoughts are controlled from their childhood. For example, North Korean children are well aware of the song "We Have Nothing to Envy in the World" even to the point where they memorized the lyrics of the song (Demick 119). The song is about praising the "Godly" leader, Kim Il-sung, and this song might make the children view the countries outside their country as inferior ones to their country, or scary ones that might attack them. Moreover, all kinds of education, even for science, in North Korea are supposed to be based on the ideology of a society (Demick 120). They are all ultimately used to praise the leader, Kim Il-sung, and to make students antagonistic to "enemy" States including the U.S. and Japan (Demick 120). In this system, many North Koreans are brainwashed and their minds are controlled by their leaders, from a young age. For example, Hyeonsoo Lee, who is from North Korea, now living in South Korea, said in her Ted Talk presentation that she had thought North Korea was the best state in the world, "singing a song 'Nothing to Envy'" while she grew up in North Korea. In that way, the State keeps controlling its people's minds and thoughts across generations.

Along with these controls from the government, North Koreans' human rights, especially the "right to life" (Article 3 of the UDHR) and the "right to a standard of living...including food" (Article 25), are violated from the failure of its economic system. From many news and scholarly

articles, including Kotona-Apte, Judit and Ali Mokdad's "Malnutrition of Children in the Democratic People's Republic of North Korea," it is clear that North Korean society is known to be one of the poorest countries in the world to the extent that people are starving to death almost every day. This shows that its economic system is clearly not working well. Even though it is clearly shown that the system needs to be changed, its leaders maintain the general structure of the system, especially the system of "central control," because it is related to keeping their power (Hassig and Oh 65; 66). Meanwhile, most of North Korea's common people do not even know about principles of their economic system and the statistics for their economic situation while they are struggling for survival in this system (Hassig and Oh 65). The economic system, which is based on communism, is supposed to distribute resources equally, but North Korea seems to only focus on central control rather than distribution. According to Hassig and Oh, the "central control" is a fascinating tool for dictators in that the leaders not only monopolize means of production but also use it politically to protect their power by punishing those who don't follow them well (66).

As a whole, from a statistical point of view, the Gross National Income(GNI) of North Korea was approximately \$25.6 billion in 2006, which is thirty-five times less than its neighboring country, South Korea (67). Furthermore, North Korean per capita GNI in 2006 was \$1,108, which is 17 times less than that of South Korea (67). This situation shows that North Koreans are in more severe poverty, compared to the situation in neighboring States. Especially, considering the fact that North Korea and South Korea have similar natural resources, given their status as two divided States on a peninsula, the economic difference between the States shows that North Korea's economic system is not working well to support its people financially. However, due to the government leaders' inability to take care of its people and the economy,

most North Koreans have not been able to get out of the poverty cycle, resulting in their basic human rights being denied. For example, the State doesn't properly operate Public Distribution System of food because of food shortage in economic difficulty in North Korea (KINU 311). The poor operation of the system worsens the poverty, which makes people stuck in the poverty cycle where people's rights to food and life are threatened.

Overall, in North Korea, its leader, Kim, is the only one whose human rights are entirely protected (Hassig and Oh 195). The dictator continues staying in power because of the oppression and violation of the rest of North Koreans' human rights (Hassig and Oh 195). The government keeps violating the human rights of its people through its established political systems, and the people are "expected to support Kim enthusiastically" (Kagan, Oh and Weissbrodt). The rights to food, the rights to safety, and the right to individual liberties, which are taken for granted in most countries including the U.S. and S. Korea, are severely violated by the leaders in North Korea. If the people attempt to eat, live, or travel freely, all of them are sent to prisons (Hassig and Oh 195). The politics and the laws in the society are entirely controlled by the political party, and used to maintain the leaders' power and to justify their ruling over the State (Hassig and Oh 196). In particular, the law of North Korea is based upon "Ten-Point Principles", which are the party principles centered on Kim, Il-sung (Hassig and Oh 196). These principles look very similar to the Ten Commandments in the Bible, which means North Korea seems to be not "a State" for its people, but a religious group that worships its leaders, the Kim family. In this situation, even the right to be equally treated is violated by their leaders for common people, while the leaders are enjoying their privileges and abundant wealth, provided by the government. Specifically, the DPRK government classifies its people based on "their loyalty...to the Kim regime" (Hassig and Oh 198). Moreover, the names of the classes

themselves are discriminatory; "the core class, the wavering class" and the "hostile class". Most of the people from "the core class" are in positions of leadership, being "party cadres" (Hassig and Oh 198). These classes are mostly hereditary, based on family history, similar to a caste system (Hassig and Oh 199). There are some movements between classes, but only downward, based on whether one's behavior and words reflect consistent "loyalty to the Kim regime" (Hassig and Oh 199). There seems to be no room to go up in this system with one's efforts alone in this context.

Actions taken by International Community regarding Human Rights Violations in DPRK

Considering this situation of severe human right violation in political, economic, and social areas, the international community has taken action for years to hold North Korea accountable. When it comes to the international community, this paper will focus on the United Nations, significant States that are closely related to the DPRK, including South Korea and the U.S.², as well as civil society³, primarily NGOs.

First, the UN Human Rights Council has been investigating North Korea's human rights situation. The United Nations is at the forefront of demands for international action on the human rights violations perpetrated by North Korea (Cumming-Bruce). Through the Human Rights Council, the Commission of Inquiry on Human Rights in the Democratic People's Republic of Korea (DPRK) was founded on March 21, 2013 (OHCHR). The Commission was created after

² The author wants to acknowledge that there are countries other than S. Korea and the U.S., which are closely related to issues about North Korea, specifically Japan, China, and Russia. For example, the six countries mentioned above have been holding Six Party talks on North Korean nuclear weapon issue from 2003 (Bajoria and Xu). However, for the purpose of this paper, two of the main state actors on North Korean human rights issue, S. Korea and the U.S. will be focused in the paper.

³ Civil Society includes not only NGOs but also media and religious groups "that manifest interests and will of citizens" (Dictionary.com). However, based on limited space for this paper, the paper will focus on NGOs for the actions done by civil society.

decades of discussions and attempt to address North Korean human rights issues, as a mechanism for high-level scrutiny of North Korean human rights situation (A/HRC/RES/22/13). The Commission consists of three individuals: Michael Donald Kirby from Australia, retired Judge, and Sonka Biserko from Serbia, "founder and president of Helsinki Committee for Human Rights in Serbia", both of which are appointed by the President of Human Rights Council, and Marzuki Darusman from Indonesia, appointed to be Special Rapporteur⁴ on the situation of human rights in the Democratic People's Republic of Korea by Human Rights Council in 2010, with Michael Kirby being the Chair of the Commission (OHCHR). Moreover, "nine experienced human rights officials" from the UN Secretariat helps the Commission for the investigations (OHCHR).

The Commission has had several oral updates from the Chair and press releases about its investigation process, including getting testimonies from North Korean refugees (OHCHR). For example, according to the Chair, previous prisoners of North Korea have reported that there have been numerous cruelties in prisons, including making a mother drown her baby and burning the corpses whose reason for the death is starvation (Cumming-Bruce). The panel of the Commission also sent a letter to North Korea's leader to get cooperation for the investigation, according to the chairman, but the letter was rejected by the North Korean government (Cumming-Bruce). However, the investigation led by the Commission of Inquiry is significant in that the United Nation gained a systematic tool to keep pressure on the North Korean government to improve their human rights situation. Furthermore, the UN has kept appealing to the international community to send food-aid to North Korea to help prevent North Koreans' human rights situation from becoming worse (Lee, S 77).

⁴ The Special Rapporteur takes further investigations about the country's human rights situation, and writes annual reports on it both for Human Rights Council and General Assembly (OHCHR).

In addition to the work of the newly formed Commission, the Special Rapporteur has previously investigated the North Korean human rights situation by visiting countries near North Korea as well as cooperating with other members in the UN to get suggestions on the research process or have more manpower during the investigation process. The Special Rapporteur published several statements and documents based on his visits to different countries and research, and made recommendations for the international community with regard to the North Korean human rights issue. Specifically, the documents enumerate delineation of the rights that are being violated under North Korean regime and the actions that are taken by the General Assembly, Secretary General, and the Special Rapporteur in the UN, to condemn the violations. Since 2004, the Secretary General and Special Rapporteur have published twenty-two reports on the North Korean human rights situation and there have also been sixteen resolutions adopted by the "General Assembly and its subsidiary organs" on the situation (A/HRC/22/57 1). Furthermore, there are several mechanisms that have been used simultaneously to interact directly with and pressure North Korea to improve its human rights situation. These mechanisms include the Universal Periodic Review in which Human Rights Council reviews the human rights record of each member State in the UN. UN human rights treaties bodies also assess the extent to which the country is conforming to the treaties it has ratified. For example, North Korea recently submitted reports to the Committee on the Rights of the Child in 2009, to the Committee on the Elimination of Discrimination against Women in 2005, to the Committee on Economic, Social, and Cultural Rights in 2003, and to the Committee on Human Rights Committee in 2001 (OHCHR). In addition to these mechanisms, the Special Rapporteur plays a crucial role in the investigation on the North Korean human rights situation because he has an authority to visit the State.

Secondly, while the UN has been doing all of these activities, the United States of America has also been playing a significant role in the protection of North Koreans' human rights. It adopted the North Korean Human Rights Act in 2004. The Act provides funds during the period 2005 to 2008 in order to support North Korean refugees and to promote democracy in North Korea (Margesson, Chanlett-Avery, and Bruno 16). The Act also makes it easier for North Koreans to seek asylum in the U.S., and establishes "a Special Envoy [appointed by the President] to promote human rights in North Korea" (Margesson, Chanlett-Avery, and Bruno 17). Moreover, the Act emphasizes that human rights should be central in any negotiations between the U.S. and North Korea and the U.S. should continue to give humanitarian aid to North Korea, along with improving monitoring mechanisms to make sure the resources that are donated are distributed well (Margesson, Chanlett-Avery, and Bruno 17). Reactions to this Act ranged from support to skepticism or criticism about the possibility that it might harm U.S. relations with other countries like S.Korea and China (17). At the same time, the Act shows that the U.S. government is not just concerned about North Korea's human rights situation but also trying to take actions that might influence the situation more directly. The Act was renewed for four years after 2008 by the U.S. Congress. Based on this Act, the Special Envoy filed a report with the government on 8 Nov. 2012. The report describes the activities of the Special Envoy from March 2011 to March 2012 to improve the human rights situation in North Korea (Bureau of East Asian and Pacific Affairs).

Furthermore, the U.S. State Department publishes annual reports on the human rights situation in every country, including North Korea. For example, the North Korean report for 2011 analyzes the human rights situation since Kim Jong-un took over the leadership after the death of his father, Kim Jong-il (Bureau of Democracy, Human Rights, and Labor). The report

largely describes violations of freedom of speech and the right to secure life, noting that arbitrary detention and extrajudicial killings continued to be committed in 2011 (Bureau of Democracy, Human Rights, and Labor). The report is very comprehensive, explaining the specific and systematic violations of each right, perpetrated by the State.

In addition to the U.S.'s actions, South Korea has published annual reports about the North Korea's human rights situation since 1991, especially through the Korea Institute for National Unification (KINU). KINU is a government-funded agency and "a national policy research institute... on North Korea and unification" (KINU.or.kr). For example, the "White Paper on Human Rights in North Korea" in 2013, published by KINU, discusses international human rights standards, North Korean laws on human rights, and the specific rights that are being violated in North Korea. The investigation for the annual reports has included personal interviews of North Korean defectors, analyses of North Korean laws and different articles on its human rights situation, including newspapers, South Korean government documents, and U.N. Documents. These reports are used by other human rights advocates as well. For example, the U.S. State Department cites them in its reports on North Korea.

These reports are one of the main sources of information for the South Korean government and the general public to learn about the human rights situation in North Korea. South Korea cannot take proactive actions toward North Korea, such as directly investigating its human rights violations, because it is still in a temporary ceasefire agreement (not a war termination agreement) with North Korea. This means the two countries are still very sensitive towards each other. However, South Korea is still taking indirect actions to help promote awareness of the North Korean human rights situation by setting up its KINU database. Using

this database, other countries, the U.N Special Rapporteur, and NGOs can proceed to take further actions to protect North Koreans' human rights.

Thirdly, many NGOs are also engaged in investigating and reporting on North Korea's human rights violations. For example, Amnesty International publishes annual reports on North Korea's human rights situation, which include background information about its regime, food crisis, rights being violated, and international actions to improve the situation (AMNESTY.org). The organization has an archive for the reports on their website to which the public has free access. Amnesty International not only provides information about the situation but also calls for direct actions from its members, such as an online petition to the North Korean leader. Recently, on May 4, 2011, Amnesty International sponsored a petition to call for closing political prison camps in North Korea, which was signed by 6,259 people. Using this mechanism, the organization keeps pressuring North Korea to improve its human rights situation with the support of people from all over the world.

Human rights NGOs are not just working independently to investigate North Korean human rights issues but they are also cooperating with one another in the process of "naming and shaming" the government of North Korea and calling for international action for it to stop violating human rights. International and domestic NGOs, in general, play a crucial role in transnational advocacy networks, working together to carry out research and "pressuring more powerful actors to take positions" (Keck and Sikkink 9). Therefore, transnational advocacy networks try not only "to change the behavior of states" but also to bring more attention and encourage more action from other international human rights organizations (Keck and Sikkink 2;3). For example, according to an article from Human Rights Watch, more than forty human rights organizations, including Amnesty International and Human Rights Watch, called for more

attention and action internationally to stop human rights violation in North Korea, on December 8th, 2011. This was two days before International Human Rights Day, which occurs on December 10th and commemorates the establishment of UDHR and promotes human rights awareness. In general, NGOs have been gathering a lot of information about the North Korean human rights situation, gaining support from many people across the world, and pressuring North Korea to improve its human rights situation.

Direct State Response to International Pressure

This paper will now evaluate the impacts of these important interventions by international actors (the United Nations, significant countries, and NGOs) as well as international human rights laws on the North Korean human rights situation. This paper will focus specifically on three main areas regarding these impacts: 1) legal reforms, 2) specific government reactions to international pressure and global trends (policy changes and diplomacy in response to international pressure), and 3) the overall quality of people's lives in North Korea.

1) Legal Reform

A. Constitutional Reforms

In regard to legal reforms, there have been some changes in North Korea's Constitution to improve the representation of its people in the government and better serve them and some changes in the State's criminal law to better define crime and reduce the degree of punishment. The North Korean Constitution defines the underlying principles of the State (Yoon 1289). This analysis will begin by reviewing the change in the Constitution as a way of understanding how the nature of the government has changed. This paper is going to show the main point of the Constitution when it was first established in 1948 and then talk about some reforms that have

been made in the Constitution. Furthermore, the paper will discuss the changes in North Korean criminal law because it is closely related to human rights protection in the State.

When the North Korean Constitution was adopted in 1948, when the State was officially created, the main thing it focused on was the centralization of power. For the political power structure, it manifested that the Supreme People's Assembly (SPA) is "the highest organ" (Yoon 1292). Following the USSR's Supreme Soviet model, the SPA was established as a legislative body (Yoon 1292). For the members of the Assembly, there is technically an election with four principles for democratic and safe voting: "universal, equal, direct, and secret voting" (Yoon 1293). However, in reality, the party approves candidates for election, after a strict screening process (Yoon 1293).

This process reveals that elections are just a tool for justifying the selections of the political party in power. However, even this party does not have full power over the politics of the State, and it was heavily influenced by the leader, Kim Il-sung (Yoon 1293). The party was established to make North Korea look like it has "democratic representation" (Yoon 1293). The implementation of the Constitution shows that North Korea was obsessively focused on establishing and strengthening the centralization of power. At the same time, however, the very existence of the Constitution shows us that North Korea is concerned about the perceptions of international community; at least it looks like this superficially. This can be shown specifically in the part that the State established the SPA as "a quasi-independent agency" to make the State's politics appears to have "democratic representation" (Yoon 1293). It appears that the party rules the State and select its candidates independently with less influence from any power, possibly applying "check and balance" principle between the party and the leader of the State.

The State is, however, not democratic despite its claim to this status, as the official name of the State suggests. One measure of democracy is provided by the "Polity IV Project: Political Regime Characteristics and Transitions, 1800-2012" which judges the degree of democracy in politics on factors including: "executive recruitment, constraints on executive authority, and political competition... [and] changes in the institutionalized qualities of governing authority" (Marshall). Based on these measures by the indicators, Polity IV put States on the scale between -10 (autocracy) to 10 ("full democracy") (Marshall). Specifically, North Korea has been continuously rated an autocratic State, staying between -7 to -9 on the scale, from 1948 to 2010 (Marshall). Furthermore, most North Koreans don't even know about their political systems very well as they are too busy struggling for their survival to think about them while they are oppressed from the government, according to stories of exiles⁵. Therefore, the establishment of the system, which looks like it is democratic, is not for its people. At the same time, however, if North Korea did not care about international community, it would not have bothered to create the appearance of democracy; thus, it seems that North Korea cares about how international community perceives the State, at least at the surface level of what the State looks like in its Constitution, and is susceptible to international approbation.

There was a change of Constitution in 1972. Through this change, the State further empowered the dictatorship system, which is not good sign for the human rights situation. At the same time, however, the 1972 Constitution set forth a socialist vision or goal aimed to benefit the public. The 1972 reform, therefore, provides the international community with a measure to hold the State accountable.

⁵ There are several documentaries and TV programs where North Korean refugees share their stories about their lives in North Korea. For example, there is the South Korean TV program titled "이제 만나러 갑니다[Yi-jae Man-na-re Gam-ni-da] (Now, I go to meet you)," where North Korean defectors are telling their experiences about North Korea.

The 1972 Constitution is more sophisticated than the 1948 one, and there are two main points for 1972 Constitution (Yoon 1295;1296); First, it manifested the power of Kim, Il-sung as absolute and undisputable leader, and second, it removed private ownership, establishing firmly the "socialist central economic planning system" (Yoon 1295). From these changes to the Constitution, it is clearly shown that North Korea was definitely moving toward a more authoritarian governing regime. It didn't improve its human rights situation, with continuation of the government's suppressing and controlling North Koreans. The "levels of repression, democracy...[and] economic development" are closely related to human rights violation (Poe, Tate, and Keith 291). The less democratic, or more authoritarian, a State is, the more it tends to repress human rights (Poe, Tate, and Keith 309; 310).

However, the Constitution also mentioned some positive goals or visions for their socialistic system. Specifically, it stated that antagonistic feeling among classes, "exploitations[,] and oppression" are all removed in the State, so the State is pursuing a society without classes and the society where people can work based on their abilities and get what they needs (Yoon 1295;1296). However, despite these aspirations, the reality for all but the elite in North Korea was that the people were not even paid properly for what they worked to maintain adequate standard of their living, and the working conditions were terrible (Demick 60).

In this situation which is contrary to the goals in the Constitution, North Koreans are stuck into their situation of poverty and starvation, their basic rights to life being violated. They cannot stop their working let alone resisting against their supervisors for right treatment because otherwise, you would not even receive coupons for food, and forced to go to a detention center (Demick 60). Furthermore, most children's "weight-for-height" were a lot less in North Korea than the international standard from the study conducted by the World Food Programme (WFP)

(Kotona-Apte and Mokdad 1317). This data show that the nutrition level of North Koreans, especially children, is severely lacking to continue healthy life. In this situation, numerous people are dying from hunger day to day. When this reality is compared to the Constitution, there is a contradiction or inconsistency between the two. Contrary to the Constitution that says that the State pursues the society where all people get what they need, the North Korean people have been continuously exploited without adequate pay and working condition, and oppressed by the government which disallows criticism against the State. The people have not even been able to get fed enough to ensure their survival. In this context, the people's basic right to life, which is clearly articulated in the Article 3 of UDHR, has been being violated.

At the same time, however, the objectives and some descriptions about the way the State elect its president that are stated in the Constitution can be used by the international community, to hold the State accountable for not following even its own words. The objectives include elimination of class antagonism, oppression, and exploitation, which is mentioned above. Additionally, the North Korean Constitution says that for government organizations, officials are elected by its people (Yoon 1296). By putting these statements in the Constitution, North Korea is expected to follow their words and to apply the principles to serve its own people, which the State doesn't seem to try to do. The Constitution guarantees that the State is "representing the interests of all the Korean people" (Yoon 1296). However, the situations of starvation and oppression, mentioned above, clearly demonstrates that the people's interests cannot even be expressed, let alone being represented. In this situation, the Constitution should be used by the international community as another 'tool' to accuse North Korea of human rights violation and for leverage to improve its human rights protection.

There was another major change in the Constitution in 1992, mainly influenced by the global trend and several external incidents at the end of Cold War, when "the geopolitical world order" was changing with the collapse of the Soviet Union and other communist countries (Yoon 1297). In addition, China was also transforming its economic system toward the market system (Yoon 1297). In this situation, with the previous communist connections being almost gone, North Korea became isolated, and forced to build new relations for investment and trade, to improve its political and economic situation(Yoon 1298). The State changed the Constitution accordingly (Yoon 1298). The 1992 Constitution showed that North Korea was definitely concerned about global trends and the views of international community. These reforms counter the conventional assumption that North Korea is ignoring the surrounding international community entirely.

There are both negative and positive sides to the 1992 reform to cover in this paper about human rights situation in the State. On the negative side, North Korea became more concentrated with its military protection. The National Defense Commission(NDC) was elevated to be a separate organ (Yoon 1299). The Constitution before 1992 gave the President power to lead the NDC, but after 1992 the chairman of the NDC had the power to control the NDC directly. Specifically, Kim, Jong-il was "elected" to be the chairman during that time as Kim Il-sung tried to give foundations for him to be successive leader (Yoon 1289; 1299). This elevation of the NDC as a separate organ meant that the leaders' attention and resources were more outward looking, focused on national security, while the people continued to starve to death on the ground. In that sense, this change might have worsened the poverty and hunger situation of the people through lack of food distribution to them. The public distribution system for food was "far below the daily requirement" in 1997 (Katona-Apte and Mokdad 115).

On the other hand, there were some positive changes in the 1992 Constitution. First, the State developed a democratic system at least on the surface level. For example, "the proletarian dictatorship" was changed into a "dictatorship of people's democracy" (Yoon 1298). This reform suggested the appearance of democracy in that the State included "democratic" in the name of their system to cope with the situation where the State became isolated in the world (Yoon 1298).

Secondly, through the 1992 reform, North Korea opened its door to more countries including South Korea to get foreign investments and to develop its economy. Specifically, the North Korean government's attitude and policies became more about co-existence rather than antagonism in relation to South Korea (Yoon 1299). Moreover, the State established "Rajin-Sonbong Free Economic Trade Zone," and Pyongyang passed laws related to foreign investment (Yoon 1300). These steps suggest that North Korea was responding to international community by opening up its door to improve its political and economic situation. Also, it shows that North Korea seems to care about the diplomatic relations with other countries, and it actually tried to make more positive relations with other countries, at least in the era.

B. Criminal Law Reforms

This paper will now discuss the changes in North Korea's criminal law to see whether there have been any further impacts by the international community on North Korea's human rights practices. There have been five revisions of the criminal law since 1950 when it was first enacted, but the most significant revision occurred in 2004 (Han 122). In general, the revision of the criminal law showed some progressions, especially in terms of human rights protections (Han 122; 123). Specifically, for the revision in 2004, there are two major reforms, definition of

crimes and punishment levels. Both of these are closely connected to international pressure on North Korea to promote its human rights situation.

Before going into the details about the two main criminal law reforms, this paper will introduce brief background information about the context of the revisions in 2004. Since the mid 1990s, there has been an economic crisis in North Korea, resulting from the breakdown of its socialist "brother" countries and "the failure of a self reliant economy" (Han 126). Confronted with those economic failures and crises, North Korea focused more on "controlling abuse of commercial discretion" rather than exercising omnipotent power (Han 127). The State tried to punish those who are violating economic regulations, especially in the area of foreign trade, by making them do labor training to facilitate economic activities (Han 126; 127). Through the "less than two years' labor training," the State tries to make sure not only that state monopolies are protected but also that economic activities, especially foreign investment, flow without any disturbance (Han 127). In that sense, North Korea showed willingness to improve its economic structure, at least in its appearance from international community. Under the spiral model, this change of the criminal law in 2004 might be tactical in that it tries to get foreign investment according to Sup Han. However, in itself, it showed that North Korea cares about its relations with the international community, and the State is following the phases in the spiral model of human rights compliance.

In this context, there are two big areas that North Korea changed or revised, pressured by or being conscious of the international community: 1) definition of crimes and 2) level of punishment. First, when it comes to the definition of crimes, the revision in 2004 adopted the principle of "nullum crimen sine lege," which means the offenses that are specified in the law are the only ones that are considered crime by the State (Han 124). Before the revision, North Korea

had adopted the use of "analogy" to its criminal law, which means that even offenses that are not specified in the laws can be considered crimes resulting in the application of those laws that are described as "most similar crimes in its types and gravity of danger" (Han 124). There is a danger in this "analogy" in that the criteria of telling what is crime and what is not could become subjective, and the North Korean people would be unclear about the specific criteria of crime and insecure about their safety. However, by revising the criminal law from the principle of "analogy" to "nullum crimen sine lege," the criteria for defining crime becomes much more straightforward, and it makes people safer from arbitrary prosecution in that the offenses that are only written specifically in the criminal law will be considered as crimes. Moreover, the principle of "nulum crimen" is a widely accepted legal principle (Han 125). Based on all these information, the change of the criminal law in defining crime shows that North Korea actually took an action that is consistent with internationally universal norms. Also, the principle of "nullum crimen sine lege" which the State adopted helps establish the consistent application of laws, preventing the unfair treatment of people who didn't commit offenses specified in the criminal law. This change promotes the human rights protection of more people, especially right to security from the Article 3 in the UDHR.

The second criminal justice reform that aligns with human rights protection is related to punishment. Punishments, in general, have become more lenient in each of the previous five reforms of the criminal code. Punishment for many crimes in North Korea's criminal law traditionally involved the death penalty and "correctional labor," which is "the imprisonment with forced labor" (Han 125). In the past few decades, however, there have been two major positive changes in punishment: 1) the changes since 1987 and 2) the change in 2004. Since 1987, the imposition of the death penalty has been reduced, and it is now applicable for only five

categories of offenses, including "anti state offenses" and "murder offenses" (Han 125). It shows that the punishment became lenient, except for certain crimes like anti state offenses and murder offenses. Through these limits on the use of the death penalty, human rights become more protected, including protection of the right to life, as set forth in the Article 3 of the UDHR. A second significant change in punishment is that, in 2004, there was the creation of new forms of punishments, including "life imprisonment and labor-training" (Han 125). Labor training, which is working in "labor camp, factory, or mine", is the punishment for insignificant offenses without imprisonment (Han 125). Currently, labor training is the punishment for most offenses (Han 125; 126). Life imprisonment is an alternative form of punishment for the "five capital offenses" and other significant offenses (Han 125). These changes show that punishment has become generally more lenient in North Korea, improving little by little as the international community keeps pressuring the DPRK government on this issue through the actions of the UN, significant States, and NGOs.

In addition to the reforms regarding definitions and punishments, the scope of the category of "anti-state offenses" has been reduced, according to Han (129). This change is also closely related to the promotion of the human rights, especially the right to security in that people's life style is less limited as the scope of the crime is reduced. For example, compared to the law in 1974, the revision of the law in 1987 reduced "the contents of the anti-state offenses" and punishment level (Han 127). The Law in 1974 clearly says that the punishment of the "anti-state offenses" is either death or confiscation of private belongings, but the revision in 1987 lowered the punishment level to "correctional labor" (Han 127). This change of decreasing the scope of the "anti-state crime" and being less harsh about the punishment of the crime is positive indications regarding the State's compliance with human rights norms. Specifically, the people's

freedom under the Article 2 of the UDHR, would be more protected through less restriction imposed by the criminal law.

Another area that must be considered and studied, however, in relation to the State's criminal law is the issue of political prisons. Despite of a number of reports and articles on political prisons through international community including Han's "The 2004 Revision of Criminal Law in North Korea:-a take-off?," North Korea keeps denying the existence of political prison camps. It is hard to get more information about the operation of these camps outside the State because their existence is not even written in the criminal law according to Han. However, at the same time, North Korean refugees are giving testimonies as witnesses about political prisons and said those who shows complaints about the dictatorship are sent to the prisons for forced labor and "banishment into a remote inland area" (Han 128; 129). Complaints are considered crimes regardless of whether they are just spoken or shown through one's behavior (Han 128; 129). In this situation, the area of political prisons should be studied in detail through more direct methods of investigation, such as country visits by the UN including Special Rapporteur. In these ways, North Korea should be presented with more direct and primary evidence of violations in the prisons so that it cannot deny its actions. Moreover, the international community should keep pressure upon North Korea about the fact that political prison camps are outside the criminal law, the camps are therefore obviously extra-legal, and thus violation per se of the human rights of detainees in the camps keep happening.

2) Policy Changes and Diplomacy In Response to International Pressure

So far, we have discussed the legal impact of the international community on North Korea by looking at the changes in North Korea's Constitution and criminal laws. As mentioned

in Han's article, although the State may be using tactical concession to attract foreign investments, "tactical concession" is one of the phases in the spiral model for human rights violators, which indicates some level of progress. Moving on from the analysis of legal impact, this paper will discuss the North Korean government's response to the demands of the international community in other aspects, including its policy changes and diplomatic activities.

The first significant policy change was North Korea's shift from socialist and self-reliant economic to market-oriented policies and its opening of its borders to foreign investment and trade. Faced with severe famine during the economic crisis in the mid-1990s along with the breakdown of its socialist "brother" States, North Korea introduced market-oriented policies through which price, wage, and supplies are adjusted, the market is broadened, and foreign investment is accepted (Han 126). These changes, along with efforts to form new relations after the breakdown of communist States such as the Soviet Union, show that North Korea cares about how the international community perceives the State. To create these post-Cold War relations and attract foreign investment, North Korea reformed its laws. According to Han, as mentioned above, the government specifically reformed its criminal law so that the level of punishment was decreased and the scope of crimes was narrowed. It also shows that North Korea has been aware of the criticism from the international community for its human rights violations and has been taking actions to improve its image (at least to seem favorable to its potential trade partners). Moreover, it is significant that the State changed its economic policies to be more market-oriented in order to revive its economy. These policies are very different from North Korea's original socialist economic policies. In this way, North Korea seems to have started to accept that its system is not working for its people, at least economically. The State has also opened up to foreign investment from the international community to address this issue.

Specifically, there are four main areas that North Korea opened for foreign investment : 1) Raseon, 2) Sinuiju, 3) Kaesong, and 4) Geomgangsang (Zook). Raseon is the first area that the State opened up to bring foreign investment, but it failed because of "poor institutional design" and poor regulation (Zook 165). Even though the area has more freedom compared to other areas in the State because it does not directly belong to the State, the trade is still controlled by the SPA, which means it is not completely free (Zook 166). Also, the regulations for foreign investments are confusing (Zook 166). Accordingly, the law for the second area, Sinuiju, was devised to address these drawbacks (Zook 169). Sinuiju is the only area where there is a railroad connecting North Korea and China (Zook 169). In addition, the State has the law, called "the Basic Law of the Sinuiju Special Administrative Region," that guarantees "the considerable degree of autonomy" in its administration to prevent "interference from the central government" (Zook 169; 170). Meanwhile, in reality, the area has been also under strict control of the State in that all property in the area is considered as the State's (Zook 172). At the same time, however, the State made laws in an effort to appear more liberal than strict in their ruling of the province (Zook 172). Specifically, it created a law that provides residents of the area with privileges in society though it is doubtful that the policy would be effective in bringing more residents to the area without social infrastructure (Zook 172). The free-trade related regulations in these two areas suggest that North Korea is trying to improve its international image to build foreign relations. Also, North Korea is trying to improve its economic situation for its people by opening up its economy to other States regardless of ideological difference. Furthermore, using relations with North Korea, the international community can better hold the State accountable for its human rights violations.

North Korea has also opened the city of Kaesong to South Korea as an economic zone, where South Koreans can enter and establish factories for North Korean workers. While the other cities like Raseon and Sinuiju, which are on the border between North Korea and Russia or China, are open mainly for economic investment, Kaesong, which is near the capital, Pyongyang, was opened for both economic and political reasons (Zook 173). It was first opened in 2002 as a result of negotiation between its leader, Kim Jong-il, and South Korean president Kim Dae-jung, who strongly endorsed the "Sunshine Policy." This policy encouraged more trust and cooperation between the two States to make the relations between the two become favorable (Zook 174). In that sense, the opening of Kaesong is not only for economic investment but also for political cooperation (Zook 174). This example shows that there are opportunities for other States to build positive relations with North Korea, through which the State can both increase economic efficiency to feed its people and make favorable political connections. From the connections, it not only can get more help but also can be subject to positive challenges to improve the quality of its people's lives and better protect their human rights. Although North Korea recently closed Kaesong industry complex on April in 2013 by withdrawing its workers and disallowing South Koreans to enter North Korea because of "military tensions and threats of war," the complex was opened again on September in the same year (Wilson).

Lastly, North Korea also opened Geungangsan, Mt. Geumgang, for South Korean tourism (Zook 178). The State not only opened the place for tourism but also for sales by businesses of South Korea, including selling goods to tourists (Zook 178). Hyundai Asan, a major South Korean corporation, has been the one participating in this project of tourism in the mountain (Zook 179). In the area, South Koreans are only subject to South Korean laws, so they don't have to worry about violating North Korean laws (Zook 179). The tourism successfully

continued from 1998, when the project officially started, until 2008 when a South Korean woman was shot and killed by North Korean soldiers. The project, along with Kaesong economic zone, has not been operated since then, but is recently in the process of preparation for starting again, especially in South Korea, according to Freya Petersen and Geoffrey Cain's "South Korea Signals Return to North Korea's Mount Kumgang [Geumgang] Tourist Resort." South Korea has been accepting the companies that would like to have businesses in the field of tourism in Geumgang mountain (Petersen and Cain). The fact that North Korea opened the Geumgang mountain for South Koreans, along with the Gaeseong city, working with the South Korean companies shows that the State is willing to work together with its antagonistic party, to improve its economies and develop its systems.

Meanwhile, along with these policy changes including opening up places for trade, investment, or tourism, North Korean government also signed international human rights treaties. In fact, North Korea ratified the Convention on the Rights of the Child on September 21st in 1990, the Optional Protocol to the Convention on the Rights of the Child on the involvement of children in armed conflicts on September 6th in 2000, and the Convention concerning the Prohibition and Immediate Action for the Elimination of the Worst Forms of Child Labour on March 29th in 2001 (University of Minnesota Human Rights Library). The State also acceded to 12 international human rights treaties including two major human rights, the ICCPR and the ICESCR on September 14th in 1981 (University of Minnesota Human Rights Library). Here, ratifying a treaty means that a State agrees to be bound by it, as a State-party to it, and to be monitored by the related treaty committee regarding whether it has incorporated the treaty into their laws and policies appropriately. On the other hand, acceding to a treaty means accepting "the opportunity to become a party to a treaty", with "the same legal effect as

ratification"(United Nations Treaty Collection). Moreover, Lee, Kyu-Chang says, "on July 3, 2013, North Korea signed the Convention on the Rights of Persons with Disabilities in his article (1). The context of signing the convention was article 8 in the revised Constitution in 2009, saying "protects and respects human rights (Lee K1). This ratification status of North Korea shows that the State is paying attention to the actions of UN and other human rights organizations, and human rights treaties among the States. Most importantly, it is willing to take action to become a party to treaties, through which it gets more responsibilities to improve its human rights situation, complying with the treaties.

North Korea started to ratify some of the international human rights treaties in the 1990s, when its ally States including the Soviet Union were collapsing. This might suggest that North Korea had a big "tactical concession" to look favorable to its potential trade partners at the end of the Cold War. Around this time, North Korea tried to build post-Cold War relations to bring foreign investments to strengthen its economy, as mentioned above in p.31. To attract the investments, the North Korea changed some laws including criminal laws for better human rights protection. Furthermore, it took some diplomatic actions to look more favorable to international community for bringing foreign investments from it, and the actions include signing international human rights treaties. Since North Korea has already been a member of the United Nations since 1991, it might have been easier for the State to find the human rights treaties to sign because there are some existing conventions and covenants in the UN. The State's signing the treaties might not be out of its sincere attitude, but at least it tried to show some favorable actions to appeal better to international community as a "tactical concession".

Through these ratifications, North Korea can be pushed by the treaty committees to actually comply with the treaties in reality, not just showing the fact that they ratified. For

example, in the recent case where nine teenagers and young adults were repatriated to North Korea on May 2013, North Korea can be pushed more to comply with the ICCPR and the Convention on the Rights of the Child, both of which the State is a party to, when it comes to the treatment of those refugees (Cho 1;4). Specifically, North Korean government violates the freedom of movement for its people including the nine teenagers and young adults, where it can be pushed more to stop punishing the nine repatriated people politically, in order to protect their rights in the ICCPR and the Convention on the Rights of the Child (Cho 4). Furthermore, they need more protection from the threat to their rights for safety because they are still teenagers or young adults. Overall, as seen in this case, to make sure that North Korean people are well protected under the covenants and conventions the State ratified, international community, especially the treaty committee, should keep pushing the State to be consistent with the treaties, by monitoring its human rights situation constantly. However, at the same time, to motivate the State to cooperate with the international community more to protect the human rights norms for its people, and possibly to sign more human rights treaties, the international community should also give "carrots" to the State like giving financial support, as a reward for ratifying the treaties.

3) Quality of People's Lives in North Korea

So far, we have talked about the North Korean government's response to the international community, the UN, individual countries, and NGOs, in legal reforms, policy changes, and ratification of international human rights treaties as diplomatic actions. Now, this paper will move to the third part, which is about the overall quality of people's lives in North Korea, based on these changes mentioned above. This third part is different from the previous two parts in that it will analyze North Korean human rights situation from a micro-level perspective, actual people's lives, while the other two analyzed the situation from the macro-level perspective, laws

and politics. Specifically, the overall qualities of the people's lives will be measured in three specific aspects: 1) their nutrition and health situation, 2) rights to secure life, and 3) freedom to get education and knowledge.

When it comes to the nutrition and health situation, there has been no improvement, and rather, the situation has gotten worse than before. There is a Public Distribution System in North Korea through which food is distributed to the public, and, in 1997⁶, the amount of the food distributed per person by the system was "far below the daily requirement" (Katona-Apte and Mokdad 1315). The story of North Korean refugee Joseph Kim is one example of the worsening nutrition situation in North Korea. In 1994 when he was a four-year-old child, there was "a great famine" in the State and his family was starving to death for nearly a decade, and in 2003, his father died due to lack of food (Ted Talks). His family was searching for food in streets, and even on his birthday, he could not get any food (Ted Talks). He even felt humiliation and hopelessness from a very young age through this starvation. This story shows that even the most basic human right, right to food and healthy life, has been denied to North Korean people for decades. In addition to this story of a North Korean refugee, there is statistical evidence that shows severely poor nutrition and health conditions in North Korea compared to the international standard, which will be discussed in the following paragraph.

Specifically, in 1997, the World Food Programme measured the growth of children in "government-selected institutions," and it showed severe lack of nutrition and health condition, especially among children (Katona-Apte and Mokdad). The investigation was only possible in "certain parts of the country" for children under 7 years of age (Katona-Apte and Mokdad 1315). This suggests that the government might have selected institutions with the best conditions in the

⁶ The author admits that it is a little dated, but more recent information was impossible to obtain.

country in order to show the public health and nutrition situation to be as positive as possible. Despite that, the result of the measurement shows that most North Korean children "were below the normal weight-for-height" and normal height-for-age as well, compared to international standard (Katona-Apte and Mokdad 1317). A few institutions "with a prevalence of wasting [or severe malnutrition] < 10%" had higher probability to provide more food and snack, but the overall condition in institutions was too poor for children to be treated well for their better health(Katona-Apte and Mokdad 1317). Many institutions had too many children with too few staff, even up to 20 children per one staff (Katona-Apte and Mokdad 1317). In addition, no relationship was shown between "the rates of acute malnutrition," and "the number of teachers, staffs" and food in an organization (Katona-Apte and Mokdad 1317). This means that no appropriate action was taken by the government in the situation of severe malnutrition.

This situation shows that North Korea has failed to comply with the Convention on Rights of Child, which the State ratified in 1990, and ICESCR, which was acceded to in 1981. The Convention on Rights of Child clearly says, "State Parties undertake to ensure the child such protection and care as is necessary for his or her well-being." Based on the ratification of the treaty and ICESCR, North Korea has an obligation to do their best and use their resources to protect the children's well-being, which includes good nutrition. However, the reality of North Korea is that even basic human rights like the right to food and right to life are being violated, and there seems to be no improvement.

In addition, when it comes to working condition for the teachers and staffs in the institutions (kindergartens and nurseries), North Korea has failed to comply with the reformed Constitution in 1972, which required the elimination of exploitation. In reality, teachers and staff are unfairly exploited with too many children assigned per person. It is closely related to harming

people's health because maintaining good health is harder in a situation of overwork and fatigue resulting from a heavy workload. Thus, the people's rights to life have been threatened in this adverse health condition.

These examples of human rights violation show that, with regard to several rights, North Korea is still in the repression stage in the 'spiral model', which is the model of how human rights perpetrators come to follow international human rights laws in Risse, Ropp, and Sikkink's book, mentioned above. North Korean people's right to food and right to healthy life, especially the children's, are repressed by the government in that it is not taking any immediate actions to improve their living condition, even though it has responsibility, as a sovereign nation, to protect its own people.

Moreover, when it comes to their right to a secure life, North Koreans are still under constant threat due to the dictatorial nature of the regime. North Korean citizens are threatened due to the existence of concentration camps and the punishment of repatriated refugees, which have been reported constantly by NGOs and States' reports including the U.S. Congress's and South Korea's white papers. First, according to the report on North Korean human rights issue by the U.S. Congress in 2007, there are several concentration camps in North Korea where 150,000-200,000 people are incarcerated (8). The refugees who have managed to escape from the camps testify that those who are sent to the camps include political prisoners, and the conditions of the camps are too severe for them to survive (Margesson, Chanlett-Avery, and Bruno 8). These concentration camps' existence, which is shown through many testimonies, is threatening the people's security of life. According to the UN Special Rapporteur, many human rights violations, including the violation of "security of the persons," have been constantly reported about North Korea even though there have been some legal improvements related to

human rights protection (Margesson, Chanlett-Avery, and Bruno 8). In addition, the North Korean government is not responding to several cooperation requests from the UN Special Rapporteur (Margesson, Chanlett-Avery, and Bruno 9). In that sense, North Korea's position in the 'spiral model' also fits into the 'denial' stage, where the country doesn't accept or ignores criticism and accusations of its human rights violations from international community, especially about the concentration camps.

In addition to being threatened by the possibility of detention in concentration camps, the security of life is also violated by how repatriated North Koreans are treated by the State. The 1987 North Korean penal code says that defection is "a capital crime," and repatriated people are sent to "a reform institution", and can even be sentenced to the death penalty if they are found to have committed a crime of "grave concern", the meaning of which is not clearly defined (Margesson, Chanlett-Avery, and Bruno 9). The U.S. Congress report of 2007 shows that repatriated North Koreans are forced to suffer severe punishments like "detention, torture, placement in concentration camps, forced labor, and even execution (10). Furthermore, among the repatriated North Koreans, pregnant women whose children are fathered by Chinese men are forced to have abortions (Margesson, Chanlett-Avery, and Bruno 10). All of the repatriated people eventually get death punishment, including public execution, according to the testimonies from many North Korean refugees. For example, Hyeonseo Lee, who escaped North Korea in 1997, and is currently living in South Korea, said, "I thought my life was over" when she was interrogated by Chinese police to see whether she was North Korean, who are repatriated back to their State ("Ted Talks-Hyeonseo Lee"). She also mentioned that numerous people who are repatriated to North Korea face torture, imprisonment, or public execution ("Ted Talks-Hyeonseo Lee"). In this situation, where the lives of people are taken by the government just

because of crossing the border due to inhumane living conditions in North Korea, the people cannot enjoy the security of life at all. Even for those who have not escaped North Korea, the right to the security of life is not fully protected as they are watching the repatriated people publicly executed. The terror instilled by the threat of public execution results in denial of the right to a secure life of people who are watching them publicly killed.

The freedom to get an education is not fully protected for North Koreans as well. The right to education is clearly set forth in the article 26 of the UDHR and article 13 of the ICESCR, as the right for all people (KINU 363). However, the right to education through formal institution and curriculum, especially for children, doesn't seem to be protected in North Korea. Though the education from kindergartens to middle schools is mandatory in North Korea, some of the schools don't seem to be properly operated because of the economic struggle that the State is going through (KINU 363; 364). Specifically, the State has been going through serious poverty since 1990s.

Furthermore, North Korea excludes some people from education; specifically, the government doesn't give educational service to political criminals' children and those who might be reactionary (KINU 364). Moreover, though a college entrance exam system was established by the government for giving high school students more chance to connect to college from high school, there are unfair advantages to those with certain "family background and Party Affiliation" for the admission to colleges (KINU 366). It violates the State's own Constitution, where the elimination of class antagonism is stated during the revision in 1972. This is because giving unfair advantage to persons from certain family backgrounds, which is closely related to class, would create some hostilities or even conflicts between classes. In addition, military education is mandatory for children, and the international community such as the UN has been

concerned about this because that kind of education might have a bad influence to the growing children not only physically but also emotionally (KINU 372). For example, the Committee on the Rights of Child in the UN has given the North Korean government two recommendations and concerns on military education for children (KINU 372). In addition, the UN Committee was worried that the mandatory military education also has "a negative impact on the purpose of education" in the Convention on the Rights of the Child (KINU 372). Article 29 of the Convention on the Rights of the Child says that the purposes of education include "the development of respect for human rights" and "the preparation of the child for responsible life in a free society, in the spirit of...peace," which cannot be fully protected in North Korea due to mandatory military education for children (KINU 372; OHCHR).

When it comes to the right to an education and to seeking knowledge independently from the curriculum the government imposes, North Koreans are strictly prohibited from learning anything outside the prescribed materials, especially regarding facts about foreign countries. They are not even allowed to watch any foreign films or dramas, otherwise, they are severely punished for it, and could even be killed in public. For example, approximately 80 people were publicly executed in the beginning of the November in 2013, most of whom are executed due to watching South Korean and other countries' dramas (AFP). Through the State-controlled media and specific curriculum made by the State, North Koreans are said to be taught to be "the cleanest, most civilized people" in the world (Myers 165). By being continuously "taught" that way, the people are not even allowed to have doubts against their regime and are forced to praise the leaders and the regime for their survival. For example, Hyeonseo Lee, one of the North Korean refugees living in South Korea, said, "I thought my country[North Korea] was the best on the planet" ("Ted Talks"). She also mentioned she was very proud about North Korea, singing

the song 'Nothing to envy,' and she didn't get any more education about foreign countries than being just "educated" to see the U.S, South Korea, and Japan as the enemy ("Ted Talks"). In this situation, as the State tries to maintain the regime without any opposition, the rights of North Koreans to receive education or ideas that can be distinguished from political propaganda, especially about the facts outside their country, are being violated. In addition, the phrase, "the cleanest, most civilized people" taught by the State violates the article 13 of the ICESCR, which North Korea accessed in 1981. The article 13 emphasizes that an education should "promote understanding, tolerance, and friendship among all nations," which is clearly inconsistent with North Korea's teaching as their people to be "most civilized" and to see some countries as the enemy.

An Evaluation under the Spiral Model

This evidence shows that the North Korean government's actions cover three different phases in the spiral model: "repression," "denial," and "tactical concession." When it comes to overall quality of people's lives, the nutrition and the health condition of North Korean people is getting worse, the right to healthy living being violated, especially for children. Also, North Koreans' rights to secure life are violated by its government as shown by the existence of concentration camps and the treatment of repatriated people. Moreover, for their rights to get education and get knowledge, North Koreans don't seem to get appropriate education even from their national institutions, let alone getting the knowledge about the world outside the State. Through patterns of human rights violations that continue to violate the rights of the people living in North Korea, it is shown that the DPRK government is in the "repression" phase in the spiral model. North Korea is still repressing and suppressing its people's basic human rights, especially the right to food, without taking any appropriate action in this situation. At other times,

the State is also in the "denial" phase in that it is denying the existence of concentration camps despite numerous reports from North Korean refugees.

Moving from micro-level analysis of North Korea's human rights situation to macro-level, North Korea is also in the "tactical concession" stage, as shown in the legal reforms and in the government responses to the international community, such as the State's changing of policies and signing of international human rights treaties. Specifically, North Korea is trying to show how it complies with human rights norms, at least from the legal documents themselves. For example, it wrote about elimination of class antagonism or exploitation and about democratic system of election in its Constitution and became more lenient in the punishment level of crimes, with clearer definition of crimes in its criminal laws. Meanwhile, North Korea changed its economic policies to market-oriented policies, which most States adopted, to improve its economic situation to get out of poverty and starving of its people. It opened its door to foreign investment in several regions, and for this, the State tried to raise its image to international community by establishing liberal policies in specific regions for its people. Moreover, it ratified or acceded to several international human rights treaties including the ICCPR, the ICESCR, the Convention on the Rights of the Child, and the Convention on the Rights of Persons with Disabilities. Even though the human rights norms in the treaties are not fully protected by the State, it opened itself up to more monitoring and accountability for the violation of the rights mentioned in them, when it became a State party to the treaties. These legal reforms, policy changes and diplomatic actions of signing treaties shows that North Korea has also entered the tactical concession phase in that it tries to look as if it was complying to human rights norms to the international community to maintain the relations with other countries and get foreign investments from them. In that sense, it is hopeful that North Korea seems to follow the spiral

model for human rights protection, and it is not completely isolated, as it tries to maintain relations, especially for purposes of trade. Most importantly, the international community's pressure is one of the motivations for North Korea to take actions on its human rights situation when it comes to these legal and political changes made by the government to appear as if it was complying with international human rights norms. Because of the constant accusation and critiques from international community about human rights violation to North Korea, North Korea feels more pressure to improve its human rights situation, at least at the surface level, being conscious of its international image and building relations with other countries.

Conclusion

Overall, the legal reforms, policy changes, and diplomatic actions show that North Korea is actually responding to international human rights laws, global trends, and the international community's critiques and accusations about its human rights violations. North Korea is making "tactical concessions" to maintain relations with other States. Being conscious of the pressure of the international community to improve its human rights situation, North Korea has changed its laws, especially the criminal law and sentencing policies, and changed its economic policies by adopting more market-oriented ones, which most of States also adopted, to improve its severe economic struggles including poverty of the people. In addition, it has become a State Party to many international human rights treaties including the two primary human rights Covenants, the ICCPR and the ICESCR. This situation is hopeful in that it shows some positive steps by the North Korean government toward better human rights protection, at least at the superficial level, representing the "tactical concession" phase of the spiral model.

Despite these reforms, North Korea still has a long way to go to completely get out of the "repression" and "denial" phases of the spiral model. Specifically in the area of nutrition and health, the area of right to a secure life, and the area of right to education, North Koreans are denied enjoyment of those basic rights in their lives, and there is no improvement according to many reports from UN, individual States like South Korea and the U.S. and NGOs, and testimonies from North Korea refugees. In this situation, the international community should take on more responsibility to protect the North Korean people on the ground through more investigations and constant pressure on North Korean government to apply its legal, political, and diplomatic actions of signing human rights treaties to people's lives to actually achieve better human rights protection in the State. Chief Oren Lyons, who has been working for international indigenous rights, said, "Although we are in different boats you in your boat and we in our canoe we share the same river of life." Because of this connection everyone shares in this world as his quote shows, the international society has the responsibility to protect North Korean people's human rights.

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